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Liaison Counsel for Lead Plaintiff and the Class

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NANCY SCHWARTZ, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

OPUS BANK, STEPHEN H. GORDON, and
MICHAEL L. ALLISON,

Defendants.

Civil No. 2:16-cv-07991-AB-JPR

**~~PROPOSED~~ ORDER ON LEAD
PLAINTIFF’S COUNSEL’S
RENEWED MOTION FOR AN
AWARD OF ATTORNEYS’ FEES
AND EXPENSES**

DATE: November 2, 2018

TIME: 10:00 AM

CTRM: Courtroom No. 7B

JUDGE: Hon. André Birotte Jr.

Lead Plaintiff’s Counsel’s Renewed Motion for an Award of Attorneys’ Fees and Expenses (“Fee Application”) duly came before the Court for a hearing on November 2, 2018. The Court has considered the Fee Application and all supporting and other related materials, including the matters presented at the November 2, 2018 hearing. Due and adequate notice having been given to the Class as required by the March 12, 2018 Preliminary Approval Order (Dkt. No. 90) and the Court’s Order dated August 23, 2018 (Dkt. No. 124), and the Court having considered all papers and proceedings had herein

1 and otherwise being fully informed in the proceedings and good cause appearing
2 therefor:

3 NOW, THEREFORE, THE COURT FINDS, CONCLUDES AND ORDERS AS
4 FOLLOWS:

5 1. This Order incorporates by reference the definitions in the Stipulation and
6 Agreement of Settlement (the “Stipulation,” Dkt. No. 85-1) and all capitalized terms
7 used, but not defined, herein shall have the same meanings as in the Stipulation.

8 2. This Court has jurisdiction over the subject matter of the Action and over all
9 parties to the Action, including all members of the Class.

10 3. Notice of the Fee Application was directed to Class Members in a reasonable
11 manner and complies with Rule 23(h)(1) of the Federal Rules of Civil Procedure, due
12 process, and Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-
13 4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995.

14 4. Class Members have been given the opportunity to object to the Fee Application
15 in compliance with Rule 23(h)(2) of the Federal Rules of Civil Procedure. The Court has
16 received no objections.

17 5. The Fee Application is hereby GRANTED.

18 6. Lead Plaintiff’s Counsel are hereby awarded attorneys’ fees in the amount of 17%
19 of the Settlement Fund, or \$2,890,000, and \$99,141.32 in reimbursement for Lead
20 Plaintiff’s Counsel’s Litigation Expenses (which fees and expenses shall be paid to Lead
21 Counsel from the Settlement Fund), which sums the Court finds to be fair and
22 reasonable, plus interest earned at the same rate and for the same period as earned by the
23 Settlement Fund.

24 7. Pursuant to paragraph 28 of the Stipulation, the fees and expenses awarded herein
25 shall be paid to Lead Counsel within three (3) days after entry of this Order,
26 notwithstanding the existence of or pendency of any appeal or collateral attack on the
27 Settlement or any part thereof or on this Order, subject to Lead Counsel’s obligation to
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1 repay all such amounts with interest pursuant to the terms and conditions set forth in
2 paragraph 28 of the Stipulation.

3 8. In making this award of attorneys' fees and reimbursement of expenses to be paid
4 from the Settlement Fund, the Court has considered and found that:

5 a. the Settlement has created a fund of \$17 million in cash that has been
6 funded into an escrow account for the benefit of the Class pursuant to the terms of
7 the Stipulation, and Class Members who submit acceptable Proof of Claim Forms
8 will benefit from the Settlement that occurred because of the efforts of Lead
9 Plaintiff's Counsel;

10 b. the fee sought by Lead Plaintiff's Counsel has been reviewed and approved
11 as fair and reasonable by the Court-appointed Lead Plaintiff, a sophisticated
12 institutional investor that was substantially involved in all aspects of the
13 prosecution and resolution of the Action;

14 c. copies of the Notice were mailed to over 18,714 potential Class Members or
15 their nominees stating that Lead Counsel would apply for attorneys' fees in an
16 amount not to exceed 25% of the Settlement Fund and reimbursement of
17 Litigation Expenses in an amount not to exceed \$100,000, plus interest earned at
18 the same rate and for the same period as earned by the Settlement Fund;

19 d. no Class Member has objected to the Fee Application;

20 e. Lead Plaintiff's Counsel has conducted the litigation and achieved the
21 Settlement with skill, perseverance and diligent advocacy;

22 f. the Action involves complex factual and legal issues and was actively
23 prosecuted;

24 g. had the Settlement not been achieved, there would remain a significant risk
25 that Lead Plaintiff and the other members of the Class may have recovered less or
26 nothing from Defendants;

27 h. Lead Plaintiff's Counsel devoted over 2,377 hours, with a lodestar value of
28 over \$1,492,293.50, to the case; and

1 i. the amount of attorneys' fees awarded and Litigation Expenses to be
2 reimbursed from the Settlement Fund are fair and reasonable and consistent with
3 awards in similar cases.

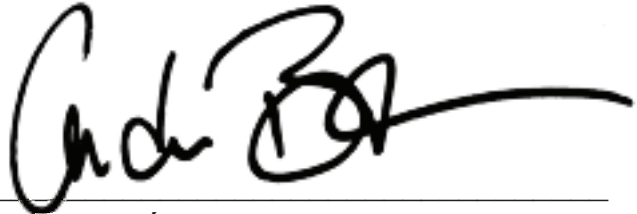
4 9. Any appeal or any challenge affecting this Court's approval of any attorneys' fees
5 or expenses shall in no way disturb or affect the finality of the Order and Final Judgment
6 entered with respect to the Settlement.

7 10. Jurisdiction is hereby retained over the parties and the Class Members for all
8 matters relating to this Action, including the administration, interpretation, effectuation
9 or enforcement of the Settlement and this Order.

10 11. In the event that the Settlement is terminated or the Effective Date of the
11 Settlement otherwise fails to occur, this Order shall be rendered null and void to the
12 extent provided by the Stipulation and shall be vacated in accordance with the terms of
13 the Stipulation.

14 IT IS SO ORDERED.

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16 Dated: November 5, 2018

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21 HON. ANDRÉ BIROTTE JR.
22 UNITED STATES DISTRICT JUDGE
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